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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/525,244	03/15/2000	L. Leonard Hacker		1197

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EXAMINER

MORGAN, ROBERT W

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 08/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/525,244

Applicant(s)

HACKER, L. LEONARD

Examiner

Robert W. Morgan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 5-9, 14, 19-20, 23-27, 32 and 37-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,924,074 to Evans in view of U.S. Patent No. 6,076,166 to Moshfeghi et al.

As per claim 1, Evans teaches a patient-controlled electronic medical record system comprising:

--the claimed a medical information server connected to a network is met by the remote web servers (406, 408, 410, Fig. 24) connected to the wide area network (402, Fig. 24) and the World Wide Web (Web) (404, Fig. 24) (see: column 12, lines 55-63 and Fig. 24);

--the claimed a medical information database connected to the medical information server is met by the electronic medical system that includes remote web servers (406, 408, 410, Fig. 24) and a point of care system (100, Fig. 1) that communicates with a reference database (104, Fig. 1) (see: column 12, lines 55-63 and column 5, lines 20-27);

--the claimed a plurality of patient medical records stored on the medical information database is met by the electronic medical record system includes several databases of electronic information, such as the medication manager (302, Fig. 18) and the data manager (202, Fig. 12) (see: column 13, lines 57-65);

--the claimed a plurality of medical provider computers connected to the network and having software to communicate with the medical information server is met by the multiple hospital computers and servers (430, 432, 434, Fig. 34) connected to the wide area network (402, Fig. 24) and the World Wide Web (Web) (404, Fig. 24) (see: column 12, lines 55-63, column 6, lines 37-55 and Fig. 24). In addition, the servers, computers and peripherals communicate using an operating system supporting Web browsers on computer networks, such as Unix, Novell Netware or Apple System 7.0 (see: column 13, lines 31-56).

Evans teaches a tiered password system to limit access to certain information in a patient's medical record from the system administrator down to the patient (see: column 15, lines 9-32).

Evans fails to expressly teach:

--the claimed means for patients to allow medical provider computers to access patient-selected portions of the patient's medical record for viewing and adding to the patient's medical record; and

--the claimed means for patients to access all portions of their medical record using browser software on a computer connected to the network.

Moshfeghi et al. teaches a system of personalizing hospital's web site regarding access privileges for example, all physicians who treat a patient may see that a patient is undergoing psychiatric treatment, but the details of this sensitive are may be privileged to the attending psychiatrist and patient (see: column 5, lines 27-45). In addition, the patients are able to see their own computer based patient record (CPR) in full detail (see: column 5, lines 43). Moshfeghi

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further teaches that the user privileges and access control rules are patient dependent (see: column 6, lines 61-62).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was to include the limiting of access privileges to view patient records as taught by Moshfeghi et al. within the electronic medical records system as taught by Evans with the motivation of keeping records of "VIP" patient (politicians, actors, etc.) restricted, due to the increasing potential for adverse publicity and blackmail (see: Moshfeghi et al. column 5, lines 39-42).

As per claim 2, Moshfeghi et al teaches the claimed medical information server includes software means for formatting patient-selected medical data from their medical record for viewing by patients. The feature is met by the patients using the system being able to see their own computer based patient record (CPR) in full detail (see: column 5, lines 43).

As per claim 5, Evans teaches the medical provider computer software is a browser client. The limitation is met by the servers, computers and peripherals communicating using an operating system supporting Web browsers on computer networks, such as Microsoft Windows NT, Windows 95 or Windows for Workgroups, Unix and Novell Netware or Apple System 7.0 (see: column 13, lines 31-56).

As per claims 6-7, Evans teaches the network is a public network and the public network is the Internet. The limitation is met by the World Wide Web (Web) (404, Fig. 24) portion of the Internet (see: column 12, lines 55-63 and Fig. 24)

As per claim 8, Evans teaches a means to allow medical provider computers to access patient-selected portions of the patient's medical record for viewing and adding to the patient's

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medical record is a patient-supplied unique access identification means. This limitation is met by the physicians that can use a point of care system to enter, access, process, analyze and annotate data from patient records in real-time (see: column 5, lines 10-13). In addition, the patient locator (200, Fig. 12) generates a unique patient identifier (PID) (221, Fig. 14) for each patient and creates and maintains a table having PIDs for all patients who have data in the patient data repository (102, Fig. 1) (see: column 8, lines 19-27).

As per claim 9, Evans patient-controlled electronic medical record system of claim 8, wherein the patient supplied unique access identification means is selected from the group consisting of alpha-numeric pass phrases, smart cards, biometric samples, bar coded cards, and bar coded bracelets. The feature is met by all data records related to a patient (211, 212, 213, 214, 215, 216, 219, Fig. 13) (214, ICD code or CPT code) include and reference the patient's unique PID as shown in FIG. 13 (see: column 8, lines 19-27).

As per claim 14, Evans teaches the claimed server to include software to schedule patient appointments. This feature is met by the appointment icon (128, Fig. 3) used to schedule appointments for the patients (see: Fig. 3).

As per claim 19, 20, 23-27 and 32, they are rejected for the same reasons set forth in claims 1, 2, 5-9 and 14.

As per claims 37-38, Evans teaches transferring hard copy medical record information into an electronic format for storage in the medical information database. This feature is met by the converter (372, Fig. 23) receives information from the data source (370, Fig. 23) and transforms the information into an electronic format compatible with the EMR system. For example, to input physical data (374, Fig. 23) such as paper or image based data, into a patient

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record, the converter (372, Fig. 23) comprises a scanner (424, Fig. 24) to digitize the physical data into a binary file format for incorporation into the patient's record which is stored in database (see: column 12, lines 35-63 and column 5, lines 20-27).

As per claims 39-40, Evans a means for collecting and transferring patient medical record information from other sources in an electronic format for storage in the medical information database This feature is met by the converter (372, Fig. 23) receives information from the data source (370, Fig. 23) and transforms the information into an electronic format compatible with the EMR system. For example, to input physical data (374, Fig. 23) such as paper or image based data, into a patient record, the converter (372, Fig. 23) comprises a scanner (424, Fig. 24) to digitize the physical data into a binary file format for incorporation into the patient's record which is stored in database (see: column 12, lines 35-63 and column 5, lines 20-27).

As per claims 41-42, Evans teaches the claimed auditing the patient medical record information from other sources and correcting the patient medical record information from other sources as needed. This feature is met by the electronic medical record (EMR) system that provides a complete audit trail for all patient data that in turn, permits inexpensive analysis of outcomes, utilization and compliance. For example, outcomes typically refer to the effectiveness of a treatment plan. Thus, the EMR system enables a healthcare provider to analyze patient recovery times and incurred costs to measure the efficacy of the treatment plan (see: column 14, lines 42-51).

As per claims 43-44, Evans teaches the claimed means for transferring a complete patient medical record from the medical information database to a medical provider for temporary offline use. This feature is met by the patient data repository (102, Fig. 1) that communicates

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with external sources to obtain patient data, such as laboratory test results and x-ray images, and transfers patient information, such as prescriptions for medication, from the electronic medical record (EMR) system to other healthcare providers (see: column 4, lines 64 to column 5, lines 27).

3. Claims 3-4, 15, 21-22 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,924,074 to Evans and U.S. Patent No. 6,076,166 to Moshfeghi et al. as applied to claim 1 above, and further in view of U.S. Patent No. 6,024,699 to Surwit et al.

As per claims 3-4, the combine teachings of Evans and Moshfeghi et al. fail to teach a software means for generating medical reminders to patients and the medical reminders are transmitted by a medium selected from the group consisting of electronic mail, facsimile transmission, telephone, telephonic text messaging, pager, and mail.

Surwit et al. teaches a case manager system that tracks patient appointments using a task reminder system to generate periodical follow-ups to the patient to schedule an appointment and the patient may be contacted via e-mail, telephone or facsimile transmission (see: column 20, lines 48-63).

One of ordinary skill in the art at the time the invention was made would have found it obvious to include the case manager system as taught by Surwit et al. within the combined system as taught by Evans and Moshfeghi et al. with the motivation of notifying and verify a patient regarding appointment compliance (see: Surwit et al. column 20, lines 62).

As per claim 15, the combine teachings of Evans and Moshfeghi et al. fail to teach the server that further includes software and interface means to notify patients with



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reminders or adjustments of scheduled appointments by means selected from the group consisting of telephone voice messaging, facsimile, wireless text messaging, e-mail, and mail.

Surwit et al. teaches a case manager system that tracks patient appointments using a task reminder system to generate periodical follow-ups to the patient to schedule an appointment and the patient may be contacted via e-mail, telephone or facsimile transmission (see: column 20, lines 48-63).

The motivation for combining the teachings of Evans, Moshfeghi et al. and Surwit are as discussed above in the rejection of claim 3, and incorporated herein.

As per claims 21-22 and 33, they are rejected for the same reason set forth in claims 3-4 and 15 respectively.

4. Claim 10 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,924,074 to Evans and U.S. Patent No. 6,076,166 to Moshfeghi et al. as applied to claim 1 above, and further in view of U.S. Patent No. 5,737,539 to Edelson et al.

As per claim 10, Edelson et al. teaches software to check patients' written and filled prescriptions for interactions, allergies, age-dosage suitability, weight-dosage suitability, and sex-appropriateness. This limitation is met by the system, which can review the patient's history in relation to the selected drug and alert the physician to any relevant allergies, one-on-one drug interactions or, if appropriate, multiple drug interactions (see: column 39, lines 64 to column 40, lines 4). As well as calculating and suggesting effective dosages by taking into account patient characteristic such as height, weight, age, sex, pregnancy and the like (see: column 25, lines 64 to column 26, lines 3).

As per claim 28, it is rejected for the same reasons set forth in claim 10.

5. Claims 11-13 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,924,074 to Evans and U.S. Patent No. 6,076,166 to Moshfeghi et al. as applied to claim 1 above, and further in view of U.S. Patent No. 5,823,948 to Ross, Jr et al.

As per claims 11-13, Ross, Jr et al. the server including software to track medical provider inventories, to produce inventory reports for medical providers and to automatically reorder depleted inventory items for medical providers. These features are met by the inventory control module that controls inventory and access for pharmaceutical and other materials used in the hospital and includes an automatic reordering system linked to other hospital (see: column 10, lines 66 to column 11, lines 2).

As per claim 29-31, they are rejected for the same reasons set forth in claims 11-13.

6. Claims 16 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,924,074 to Evans and U.S. Patent No. 6,076,166 to Moshfeghi et al. as applied to claim 1 above, and further in view of U.S. Patent No. 5,772,585 to Lavin et al.

As per claim 16, the combined teachings of Evans and Moshfeghi et al. fail to teach software to track patient medical costs.

Lavin et al. teaches software to track patient medical costs. This feature is met by the medical professional compiling a database of patient including demographic, insurance, and billing information (see: column 2, lines 5-7). The billing information is a form of tracking patient's medical cost.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the software to track patient medical costs as taught by Lavin et al. within the combined system as taught by Evans and Moshfeghi et al. with the motivation of

providing the current and up to date account information, thereby allowing the patient to be informed of all incurred medical expenses.

As per claim 34, they are rejected for the same reasons set forth in claim 16.

7. Claims 17, 35 and 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,924,074 to Evans and U.S. Patent No. 6,076,166 to Moshfeghi et al. as applied to claim 1 above, and further in view of Official Notice.

As per claim 17, the combined teachings of Evans and Moshfeghi et al. fail to teach server includes software to anonymously identify appropriate patients or anonymously extract appropriate data for medical research requests.

It is old and well known in the medical industry that researcher use other criteria with regards to gathering patient information such age, height, weight and sex rather than a patient's name to determine if a particular medication is working for a specific sample group. Therefore, it would have obvious to a person of ordinary skill in the art at the time the invention to include software to anonymously identify appropriate patients within the combined system as taught by Evans and Moshfeghi et al. with the motivation of gathering accurate results from a selected sample group to better determine the effectiveness of a particular medical treatment.

As per claim 35, they are rejected for the same reasons set forth claim 17.

As per claims 45-46, Evans fails to explicitly teach an e-mail client and means for sending patient medical record information associated with the server responds to an order selected from the group consisting of preauthorized events, patient requests, and medical provider requests sent to an autoresponder using patient supplied information.

Since Evans teaches an electronic medical records (EMR) system that includes a way for external sources to request data (290, Fig. 17B) from a patient record and communication interface (274, Fig. 17B) that sends the converted data to the external source at (298, Fig. 17B) (see: column 10, lines 59 to column 11, lines 9). One of ordinary skill in the art at the time the invention was made would have found it obvious to include an e-mail client for sending medical information at the request of the patient within the electronic medical record (EMR) system as taught by Evans with the motivation of providing a fast and effective way to request and transmit electronic patient medical records.

8. Claims 18 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,924,074 to Evans and U.S. Patent No. 6,076,166 to Moshfeghi et al. as applied to claim 1 above, and further in view of U.S. Patent No. 6,330,499 to Chou et al.

As per claim 18, the combined teachings of Evans and Moshfeghi et al. fail to teach software to respond to patient-preauthorized requests from third parties to electronically transmit medical record information to a remote location.

Chou et al. teaches a system and method for vehicle diagnostic and healths monitoring that include remote health monitoring and diagnostic services and other services of Emergency/Mayday such as ONSTAR or concierge services (column 9, lines 66 to column 11). The ONSTAR or concierge service could relay information regarding a patient health condition to hospital or physician prior to the patient arrival essential sending medical record information to a remote location.

One of ordinary skill in the art at the time the invention was made would have found it obvious to include remote health monitoring and diagnostic services to respond to requests from

third parties to electronically transmit medical record information to a remote location as taught by Chou et al. within the combined system as taught by Evans and Moshfeghi et al. with the motivation of providing a physician with up to date and accurate patient information in order to more efficiently and effectively treat the patient.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

In related art (6,032,119) Brown teaches the delivery of health information to a patient under the control of the patient.

In related art (5,664,109) Johnson et al. teaches a medical record repository for a managed health care organization.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is 703-605-4441. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

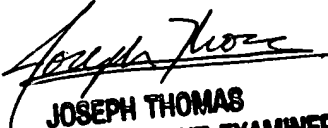
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

RWM  
rwm

August 11, 2002

  
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